

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:05CR3060
	)	
v.	)	
	)	
OCTAVIO DELVILLAR, FERNANDO	)	ORDER
NUNEZ,	)	
	)	
Defendants.	)	
	)	

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THIS MATTER comes before the court on the government's unopposed motion to continue the trial currently scheduled to begin on January 17, 2006. Filing 38. Neither defendant has filed a Speedy Trial waiver.

The government states that Trooper Frye, a necessary witness, is unavailable for trial on January 17, 2006. The government further states that based on the schedules of defendants' counsel, and the fact that for trial preparation purposes, all parties are still awaiting receipt of a translated transcript of conversations captured by an in-car recorder in a trooper's cruiser, this case should not be-rescheduled to commence before February 21, 2006. The Court, being fully advised in the premises, finds that said motion should be granted.

IT IS THEREFORE ORDERED that the defendant's trial is set to commence at 9:00 a.m. on February 21, 2006 for a duration of five trial days before the Honorable Richard G. Kopf. Jury selection will be at the commencement of trial. This Court further finds that, based upon the showing set forth in government's unopposed motion, the continuance will provide all parties with the additional and reasonable time necessary for effective preparation and will accommodate the attendance of a necessary witness. Taking into account the exercise of due diligence,

the ends of justice will be served by continuing the trial, and the purposes served by continuing the trial date in this case outweigh the interest of the defendant and the public in a speedy trial. Accordingly, the time between January 17, 2006 and February 21, 2006 shall be excluded for speedy trial calculation purposes. 18 U.S.C. § 3161(h)(8)(A), § 3161(h) (8)(B)(i), and § 3161(h)(8)(B)(iv).

DATED this 27<sup>th</sup> day of December, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge